

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

| | | |
|----------------------------------|---|-----------------|
| BRYAN C. NASH, |) | CV 04-115-M-DWM |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| RAVALLI COUNTY DETENTION CENTER, |) | |
| JUDGE JAMES A. HAYNES, MIKE |) | |
| MONTGOMERY and LT. CATHY POWELL, |) | |
| |) | |
| Defendants. |) | |
| |) | |

United States Magistrate Judge Leif B. Erickson entered his Findings and Recommendation in this matter on August 30, 2005. Plaintiff Nash did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b) (1). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

I concur with Judge Erickson's Findings. Nash has filed an

amended complaint per the Court's order, but some of his revised allegations still fail to pass the preliminary screening process pursuant to 28 U.S.C. § 1915(e)(2). Nash has conceded that the Ravalli County Detention Center and Judge James A. Haynes are no longer proper defendants. His submissions of George H. Corn and Bruce Fullbright do not pass muster because they have immunity for their part as prosecutors. Nor can Nash file suit against Mike Montgomery the public defender because he is not a proper party. Judge Erickson properly found that Lt. Cathy Powell needed to answer and she has complied.

Accordingly, based upon a clear error review, I adopt Judge Erickson's Findings and Recommendation (dkt #6) in full.

IT IS HEREBY ORDERED that all claims in Plaintiff's Complaint (dkt #3) and Amended Complaint (dkt #5) are DISMISSED except for Plaintiff's claims of denial of medical care and denial of health care;

IT IS FURTHER ORDERED that Defendants Ravalli County Detention Center, Judge James. A. Haynes, George H. Corn, and Bruce Fullbright are DISMISSED WITH PREJUDICE; and

IT IS FURTHER ORDERED that the remaining issues in this case are referred to Magistrate Judge Lynch.

DATED this 4th day of August, 2006.

/s/ Donald W. Molloy
Donald W. Molloy, Chief Judge
United States District Court